IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5967 of 2007()

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CRIME NO.85/07 OF THE SREEKRISHNAPURAM POLICE STATION

: PETITIONER/ACCUSED

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BIJI PETER, AGED 32 YEARS,
S/O. T.D.PETER, THARAKAN HOUSE, KOTTAPPADY P.O.,
GURUVAYOOR, THRISSUR DISTRICT.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

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STATE OF KERALA, REP. BY
THE SUB INSPECTOR OF POLICE, SREEKRISHNAPURAM
POLICE STATION, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**B.A. No. 5967 OF 2007**

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**Dated this the 3rd day of October, 2007**

**ORDER**

Application for anticipatory bail. The petitioner is the 1st accused. Altogether, there are 8 accused persons. The crux of the allegations is that on 29/3/07 the miscreants trespassed into a co-operative bank. They threatened the staff and customers who were present there. Rs.1.55 lakhs as also 12.250 grams of gold ornaments worn by a member of the staff and a customer were allegedly taken away by threatening and use of force. In the F.I.R. that was registered no person is named as accused. But, in the course of investigation, police have come to the conclusion that 8 accused persons, including the petitioner are involved in the commission of the crime. Accordingly, a report has been filed arraying the petitioner as accused. Four other accused have already been arrested.

Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He is not in any way connected with the crime. On account of prior animosity and business rivalries, false allegations are being raised against the petitioner. The petitioner may, in these circumstances, be granted anticipatory bail, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that no person has any animosity to falsely implicate the petitioner in this crime. In fact, no specific allegation was raised against the petitioner by the complainant or any other person connected with the crime. It is only, in the course of investigation, that the police have realised that the petitioner is involved in the commission of the crime. The confession of the co-accused lends support for that conclusion of the Investigating Officer. The petitioner has to be arrested. Attempts will have to be made to recover the stolen articles or portion of it after interrogation of the petitioner. The learned Public Prosecutor further submits that indications suggest that the vehicle used by the miscreants does belong to

the petitioner.

4. Having considered all the relevant inputs, I am not persuaded to agree that this is a fit case where the petitioner can be permitted to arm himself with an order of anticipatory bail. I find no features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. The petitioner, I am satisfied, must co-operate with the Investigator. He must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

**(R. BASANT, JUDGE)**

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